

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application

Inventor(s): James F. Zucherman, Ken Y Hsu, Charles J. Winslow, John Flynn, Steve Mitchell, Scott Yerby, Jay A. Markwart

Appln. No.: 10/816,173

Confirm. No.: 7894

Filed: 04/01/2004

Title: CERVICAL INTERSPINOUS PROCESS  
DISTRACTION IMPLANT AND METHOD OF  
IMPLANTATION

PATENT APPLICATION

Art Unit: 3738

Examiner:

Customer No.: 23910

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence is being deposited in the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Art Unit 3738, Alexandria, Virginia 22313-1450, on 9/16/04

(Attorney Signature)

Sheldon R. Meyer, Reg. No. 27,660

Signature Date: 9/16/04

RESPONSE TO NOTICE TO FILE MISSING PARTS

Mail Stop Missing Parts  
Commissioner for Patents  
P.O. Box 1450  
Art Unit 3738  
Alexandria, VA 22313-1450

Sir:

In response to the Notice to File Missing Parts of Application -- Filing Date Granted, dated 06/18/2004, enclosed are the following documents in connection with the above-identified application:

- ✓ Copy of Notice to File Missing Parts -- Filing Date Granted
- ✓ Declaration for Patent Application
- Assignment and Assignment Recordation Form Cover Sheet
- Power of Attorney

☒ Petition for an Extension of Time pursuant to 37 C.F.R. §1.136(a) for responding to the Notice to File Missing Parts

☐ Information Disclosure Statement under 37 C.F.R. §1.56

☐ Preliminary Amendment

### **Small Entity Statement**

☐ Applicant(s) qualify for small entity status under 37 C.F.R. § 1.27.

### **Patent Application Filing Fee**

The patent application filing fee (if applicable) is calculated as shown below:

For	Number Filed	Number Extra	Rate Small Entity/Other Than Small Entity	Total
BASIC FEE (37 CFR 1.16(a))			\$385.00 \$770.00	385.00 \$
TOTAL CLAIMS (37 CFR 1.16(c))	<u>65</u> - 20	<u>45</u> *	X \$ 9.00 X \$ 18.00	405.00 \$
INDEPENDENT CLAIMS (37 CFR 1.16(b))	<u>8</u> - 3	<u>5</u> *	X \$ 43.00 X \$ 86.00	215.00 \$
MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(d))			+ \$145.00 + \$290.00	0.00 \$
			TOTAL	\$1005.00

\*If the difference in column 1 is less than zero, enter "0" in column 2.

### **Total Fee**

The Total Fee associated with this communication has been calculated as shown below:

<input type="checkbox"/>	Patent application filing fee	\$
<input checked="" type="checkbox"/>	Net fee for extension of time	\$55.00
<input type="checkbox"/>	Assignment recording fee (\$40.00)	\$
<input checked="" type="checkbox"/>	Surcharge under 37 C.F.R. §1.16(e) for late filing of filing fee or Declaration:	
<input type="checkbox"/>	Large Entity \$130.00	\$
<input type="checkbox"/>	Small Entity \$ 65.00	\$65.00

TOTAL FEE DUE:


\$1125.00

**Method of Payment of Fees**

- ☒ A check in the amount of the TOTAL FEE DUE is enclosed.
- ☒ The Commissioner is hereby authorized to charge any deficiencies or credit overpayment to Deposit Account No. 06-1325. A duplicate copy of this authorization is enclosed.

Respectfully submitted,

Date: 9/16/04

By:   
Sheldon R. Meyer  
Reg. No. 27,660

FLIESLER MEYER LLP  
Four Embarcadero Center, Fourth Floor  
San Francisco, California 94111-4156  
Telephone (415) 362-3800



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
 www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/816,173	04/01/2004	James F. Zucherman	KLYC-01087US1

CONFIRMATION NO. 7894

## FORMALITIES LETTER



\*OC000000012989732\*

23910  
 FLIESLER MEYER, LLP  
 FOUR EMBARCADERO CENTER  
 SUITE 400  
 SAN FRANCISCO, CA 94111

Date Mailed: 06/18/2004



## NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

*Filing Date Granted*Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.  
*Applicant must submit \$ 385 to complete the basic filing fee for a small entity.*
- The oath or declaration is missing.  
*A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.*
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.

The applicant needs to satisfy supplemental fees problems indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Additional claim fees of \$620 as a small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **\$1070** for a Small Entity

- \$385 Statutory basic filing fee.
- \$65 Late oath or declaration Surcharge.

09/21/2004 HBELETE1 00000032 10816173

01 FC:2001	385.00 OP
02 FC:2051	65.00 OP
03 FC:2202	405.00 OP
04 FC:2201	215.00 OP

- Total additional claim fee(s) for this application is **\$620**

- **\$215** for **5** independent claims over 3.
- **\$405** for **45** total claims over 20.

Replies should be mailed to: Mail Stop Missing Parts  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

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*A copy of this notice **MUST** be returned with the reply.*

*Tedws*

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Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE